

August 21, 2012

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Laurene Tumio
Tax Registry No. 923278
52 Precinct
Disciplinary Case No. 2011-3502

The above-named member of the Department appeared before me on March 1, 2012, charged with the following:

1. Said Police Officer Laurene Tumio, while assigned to the 52nd Precinct and on sick report, on or about September 8, 2010, wrongfully did fail and neglect to report to said Police Officer's assigned district surgeon, as required.

P.G. 205-01, Page 3, Paragraph 22 REPORTING SICK
PERSONNEL MATTERS

2. Said Police Officer Laurene Tumio, while assigned to the 52nd Precinct and on sick report, on or about September 8, 2010, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that having been asked by Medical Division Sergeant Kenneth Smith if she had visited her assigned district surgeon, said Police Officer falsely represented that she had been evaluated by her district surgeon and that, as a result, she was being returned to full duty status on September 10, 2010. *(As amended)*

P.G. 203 10, Page 1, Paragraph 5 PUBLIC CONTACT -- PROHIBITED
CONDUCT
GENERAL REGULATIONS

3. Said Police Officer Laurene Tumio, while assigned to the 52nd Precinct and on sick report, on or about September 8, 2010, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that having been telephoned a second time and asked by Medical Division Sergeant Kenneth Smith if she had visited her assigned district surgeon, said Police Officer falsely represented that she had been

evaluated by "Dr Adams," her district surgeon, in the afternoon on August 26 or 27, 2010. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT
GENERAL REGULATIONS

4. Said Police Officer Laurene Tumio, while assigned to the 52nd Precinct, on or about September 8, 2010, while aware that another uniformed members of the service did make false or unauthorized entries in Department records regarding said Police Officer's scheduled evaluation by her district surgeon and said Police Officer's scheduled date to return to work, wrongfully did fail and neglect to report said misconduct to the Internal Affairs Bureau, Command Center, as required.

P.G. 207-21, Page 1, Paragraph 1 – ALLEGATIONS OF CORRUPTION AND
OTHER MISCONDUCT AGAINST
MEMBERS OF THE SERVICE
COMPLAINTS

The Department was represented by David Green, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through her counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a thirteen-year member of the Department, has been assigned to patrol in the 52 Precinct since completion of her training at the Police Academy. At times, Respondent also performs counter terrorism duties when she is assigned to Critical

Response. Respondent was diagnosed with multiple fibroids and underwent an in-patient surgical procedure for their removal, which included the removal of her uterus, in April 2010. Respondent suffered from several medical complications related to her condition and it was unknown whether or not she had cancer at that time. Respondent was hospitalized for over a week, and was on sick report for several weeks. After the surgical procedure, Respondent learned from her doctor that she could possibly have cancer. This required Respondent to periodically return to her doctor for additional testing, which consisted of sonograms and various types of medical screening. Respondent's post-surgical recovery primarily consisted of bed rest as ordered by her doctor.

Respondent characterized her post surgical experience as being "life-altering." Respondent explained that she is married and that both she and her husband wanted to have children. It was difficult for Respondent to learn that she could never have children as a result of the surgery. Respondent described her experience of learning that she could not have a child and that she could possibly have cancer as being "...the most critical thing anybody could go through emotionally."

By August 2010, Respondent had been returned to limited duty by the Department surgeon. Respondent admitted that she actually wanted to be restored to full duty at that time. Respondent explained that she was anxious to return to full duty because she enjoyed being a police officer, and after being faced with the possibility of having cancer, she wanted to continue her life and enjoy working as a police officer on a daily basis. Despite her desire to be restored to full duty, Respondent suffered some major complications during her time on limited duty which required her to be hospitalized and to report sick a second time. According to Respondent, she ruptured

something and was subsequently hospitalized. Respondent's doctor wanted her to undergo further testing consisting of a CAT scan, MRI, and other various medical tests. Respondent called the Medical Division Sick Desk to report sick on August 26, 2010 for the second time due to the surgical procedure that she had in April 2010.

Respondent explained that procedurally she reported sick on August 26, 2010 by calling the Medical Division Sick Desk which was located at One Lefrak City Plaza, 59-17 Junction Boulevard, Corona, New York. After reporting sick, Respondent would normally be required to visit the Medical Division's Bronx Health Care Unit located at the 50 Precinct at 3450 Kingsbridge Avenue, Bronx, New York to be examined by her district surgeon, Police Surgeon Adams. Respondent was unable to visit the district surgeon upon reporting sick on August 26, 2010 because she was hospitalized as a result of post-surgical complications. Respondent indicated that Adams was well aware of her medical situation because she had seen him the day before her surgery, as well as on June 1, July 19, and August 3, 2010.

Respondent called the Bronx Health Care Unit to inform Adams that she would not be able to see him because of her hospitalization and pending tests. Respondent indicated that she never actually spoke to Adams on August 26, 2010. Respondent did speak to a Police Officer Donald Hook who was assigned to the Bronx Health Care Unit. Respondent informed Hook that Adams was very much aware of her situation, and she asked Hook to inform Adams that she would not be able to report to the Bronx Health Care Unit. According to Respondent, Hook said that he would relay the message to Adams.

Respondent's medical condition had improved by September 2010, and Respondent was anxious to be restored to full duty. Respondent called the Bronx Health Care Unit in September 2010, and spoke with Hook. Respondent informed Hook that she wanted to be restored to full duty as soon as possible. Hook told Respondent that Adams was not at work on that day. Respondent told Hook that Adams was quite aware of her case. Respondent explained that she did not think that there was anything wrong with calling Hook to tell him that she wished to be restored from limited capacity to full duty. According to Respondent, it was not her expectation that Hook would do any favors for her, but rather it was Respondent's belief that Hook would relay her wish to be restored from limited capacity to full duty to either the sergeant or the police surgeon. Respondent testified that Hook told her that she was returned to full duty on September 10, 2010, which meant that her first day back to work would have been September 13, 2010. Respondent acknowledged that she did not speak with a sergeant nor with any member of the medical staff at the Medical Division at the time Hook had restored her to full duty. Respondent returned to work on full duty status on September 13, 2010, and has been designated full duty since that date.

During cross-examination, Respondent admitted that she had approximately 45 sick events during her career, most of which were related to either injuries sustained in the line of duty or major surgeries. Respondent agreed that during the course of her career and prior to the events of September 2010, she had never been returned to full duty status from either sick report or limited duty without first being evaluated by a district surgeon. According to Respondent, she was confused about the procedure of being returned to full duty after the consolidation of the second sick event connected to her

surgery in April 2010. Respondent testified that she never spoke to Hook prior to these events. Respondent denied having any relationship with Hook and, as far as she knew, nobody in her family had a relationship with him. Respondent indicated that she never asked Hook if she should come in to see the district surgeon.

Respondent recalled speaking to Sergeant Kenneth Smith, the supervisor at the Bronx Health Care Unit, on the telephone in September 2010. At the time of the telephone call, Respondent was also on the phone with her doctor and she was waiting to hear potentially bad news concerning her health. Respondent claimed to be very confused about not just what was going on, but also the dates which Smith had asked her about. Respondent denied telling Smith during their two telephone conversations that she had seen the district surgeon on that day (September 8, 2010).

Respondent testified that Smith had asked her about August 26, 2010. Respondent informed him that she went sick for the second time on August 26, 2010 in connection with her surgery in April 2010. When Smith called Respondent a second time, Respondent offered to report to the Bronx Health Care Unit immediately, but Smith told her not to report at that time. Respondent did not recall ever telling Smith that she had seen Adams on August 26, 2010 because that was the day she reported sick and she called the Bronx Health Care Unit to inform them that she had to go back into the hospital. Respondent admitted that she did not remember specifically what she had told Smith when she spoke to him via telephone on September 8, 2010 because she was confused due to a simultaneous conversation that she was having with her personal doctor on another telephone and because the conversation occurred almost two years earlier. In addition, Respondent did not recall the specific dates that Smith had asked her

about during the telephone conversations that had taken place on September 8, 2010.

Respondent explained that "there might have been dates that we're saying here that he said I came in and I didn't. I was clearly trying to explain that I knew clearly how many days I was there (at the Bronx Health Care Unit). If he was asking about a specific date, I had told him that I had seen the doctor." Respondent acknowledged that when she spoke to Hook, she believed that he was going to relay whatever information that she had told him to either a supervisor or the district surgeon. Respondent admitted that she had no knowledge of whether or not Hook actually relayed any information.

Respondent testified under redirect examination that while she was conversing with Smith on the telephone, she was also conversing with her personal doctor on another telephone. Respondent acknowledged that during the two simultaneous telephone conversations, she was attempting to combine what one doctor said with what she thought the other doctor had known about her case during her prior visits. Respondent explained:

You know, in hindsight, looking back at all this, it was so confusing what was going on with me medically and what the job was asking me. I had never had this experience before with the job nor the doctors. I wasn't trying to do anything but go back to work, and I had clearly asked him [Smith] if he needed me to come in now, I would have done that. I was not trying to do any wrongdoing whatsoever. You know, I strive for professionalism all the time. This was all I'm not going to say a misunderstanding between all parties, but all I was trying to do was to go back to work.

Respondent agreed that she could have handled that situation differently if she actually came into the Bronx Health Care Unit. According to Respondent, her mindset

was not to get anybody in trouble, but rather to go back to work on full duty status and to get on with her life.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

Respondent was appointed to the Department on August 31, 1998. Information from her personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pleaded Guilty to failing to report to her assigned district surgeon as required while on sick report on September 8, 2010. She pleaded Guilty to falsely representing to a Medical Division sergeant that she had been evaluated by her district surgeon and was returned to full duty status on September 10, 2010; and to falsely reporting to the sergeant during a second phone call that she had been evaluated by her district surgeon on the afternoon of August 26 or 27, 2010. Respondent also pleaded Guilty to failing to report misconduct by another member of the service.

Respondent testified in mitigation that she had been very ill from complications that arose after having major surgery and she was confused about dates as she spoke with a sergeant at the Medical Division's Bronx Health Care Unit at the same time she was on the phone with her doctor. This explanation, however, does not address how Respondent came up with a date certain for return to full duty by her district surgeon, Dr. Adams, when no Department district surgeon gave her such approval. While the Court understands Respondent's desire to quickly return to full duty, falsifying information to a Department supervisor is not the way to expedite the process. Further, the problems

inherent in bypassing medical approval to return to full duty posed potential problems for Respondent, the Department and other members of the service working with her. This is all the more obvious given Respondent's own history, where she properly returned to work, in that case to limited duty, only to suffer further medical problems.

Respondent has pleaded guilty to all of the charges, and the challenge here is to determine an appropriate penalty. There is no question that Respondent has had serious medical problems which affected her physically and altered her life. Some consideration of this is merited in determining an appropriate penalty.

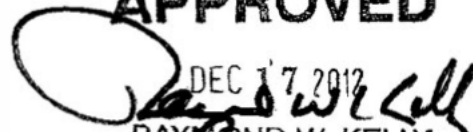
There is also no question that she has engaged in serious misconduct as a member of the service. The Assistant Department Advocate asked for a penalty of the forfeiture of 30 vacation days. Given the seriousness of the charges, this is, on balance, not unreasonable and therefore that is the recommendation of this Court.

Respectfully submitted,



Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials

APPROVED



DEC 17 2012
RAYMOND W. KELLY
POLICE COMMISSIONER

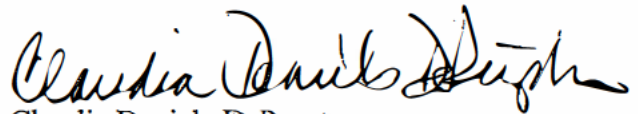
POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER LAURENE TUMIO
TAX REGISTRY NO. 923278
DISCIPLINARY CASE NO. 2011-3502

In 2011, Respondent received an overall rating of 3.5 "Highly Competent/Competent" on her annual performance evaluation. She was rated 4.0 "Highly Competent" in 2009 and 4.5 "Extremely Competent/Highly Competent" in 2010. She has been awarded one medal for Excellent Police Duty. [REDACTED]
[REDACTED]
[REDACTED]

Respondent has no prior formal disciplinary record.

For your consideration.



Claudia Daniels-DePeyster
Assistant Deputy Commissioner Trials